IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V. RAMULU

WRIT PETITION No.18668 of 2003

Between:

1 A. Vasu Devanand, S/o. Pamidayya, Hindu, Employee,

Sheristadar, Senior Civil Judge's Court, Machilipatnam.
2 D. Adinarayana, S/o. Narasimha Rao, Hindu, Translator,

District Court, Machilipatnam.
3 A. Sasidhar, S/o. Niranjana Rao, Hindu, Copyist

Superintendent, District Court, Krishna,
Machilipatnam.
4 A. Khasim, S/o. A.M. Ali, Steno-Typist, District Court,

Krishna at Machilipatnam.
5 Ch.V.N. Srinivasa Rao, S/o. Ramaswamy, Hindu, Steno-Typist,

Senior Ciil Judge's Court, Machilipatnam.
6 D.V.S. Nagendram, S/o. Rama Rao, Hindu, Steno-Typist,

Junior Civil Judge's Court, Nuzivid, Krishna District.
7 M.V.V.R.S.S.S. Siva Kumar, S/o. Somasekhara Rao, Hindu,

Telugu Typist, Special Mobile Court, Krishna,
8 D. Rama Devi, W/o. V. Samadhana Rao, Hindu, Typist,

Senior Civil Judge's Court, Machilipatnam.
9 B. Radha, W/o T. Sivayya, Hindu, Copyist,

District Court, Krishna, Machilipatnam.
10 S. Lakshmi Nancharamma, W/o. Kishore Singh, Hindu,

Copyist, District Court, Krishna at Machilipatnam.
11 M. Bhagyalakshmi, W/o K.V.V. Satyanarayana, Hindu,

Junior Assistant, District Court, Krishna,
Machilipatnam.

12 N. Ismail, S/o. Nagul Meera, Steno-Typist,

Senior Civil Judge's Court, Aanigadda, Krishna District.

13 I. Syamala, W/o. N. Narasimha Rao, Hindu,

Steno-Typist, Excise Court, Machilipatnam.

14 B. Rekha Rani, D/o Nagendram, Hindu, Steno-Typist,

V M.M. Court, Vijayawada. **... PETITIONERS**

AND

1 Hon'ble High Court of A.P., rep. by its Registrar,

High Court Bldgs., Hyderabad.

2 The District Judge, Krishna at Machilipatnam.

3 The Deputy Director, Office of the District Treasury Office,

Krishna at Chilakalapudi.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly a Writ of Mandamus, directing the Respondent Nos.2 and 3 to claim the amounts due and payable to the petitioners in the category of "two advance increments for acquiring higher qualifications'" along with the respective salaries to the respective petitioners, declaring the Proceedings of the 3rd respondent dated 30.01.2002 requesting the 2nd respondent and his subordinate officers to effect recovery of the amounts paid to the respective petitioners under the said category of "two Advance increments" as illegal besides declaring the inaction on the part of the respondent Nos.2 and 3 in not drawing the amount due and payable under the said category as illegal and *ultra vires* to the provisions of Articles 14 and 21 of the Constitution of India.

Counsel for the Petitioners: Mr. V.S.R.ANJANEYALU

Counsel for the Respondent Nos.1&2: Smt.M.BHASKARA LAKSHMI

(SC FOR HIGH COURT)

Counsel for Respondent No.3: G.P.for Finance & Planning

The Court made the following :

ORAL ORDER: (Per **C.V.RAMULU,J)**

Petitioners are the employees of the Judicial Department and working in various categories under the jurisdiction of the 2nd respondent- District Judge, Krishna at Machilipatnam. They have acquired LL.B. Degree. Therefore, in accordance with the guidelines framed under G.O.Ms.No.142, Finance and Planning (FW.PC.II) Department, dated 3-4-1986, they were granted two advance increments. Accordingly, they were all drawing the advance increments for holding higher qualification of LL.B. Degree. While so, the 3rd respondent issued Proceedings Rc.No.A2/7706/2001, dated 30-1-2002 informing the respective Drawing Officers that the Government issued instructions through Memo No.35784/481/A2/PC.1/2001, dated 7-11-2001 stating that the amounts paid under the category of two advance increments consequent upon completion of LL.B. Degree to the employees shall have to be recovered. Aggrieved by the same, the present Writ Petition is filed.

Respondent No.2 filed a detailed counter affidavit supporting the case of the petitioners. Respondent No.3 also filed a counter affidavit stating *inter alia* that the committee constituted to undertake review of the functioning of the scheme of allowing advance increments to various categories of employees, in its interim report to the Government, recommended that no person possessing a degree in law shall be entitled to advance increments irrespective of the Department to which he belongs since such a degree being a universal qualification and further suggested that where it is considered that possession of law qualification would be useful to any particular post, law degree should be prescribed as an essential qualification as had been done in the A.P. High Court Service Rules,1975. It is further stated that the Director of Treasures and Accounts, Andhra Pradesh through Memo dated 21-12-2002 informed that the issue has been referred to Government for clarification regarding discontinuance of the scheme of advance increments and the orders of the Government are still awaited.

We have examined the Government Memo dated 7-11-2001 and also the impugned letter dated 30-1-2002. The Government Memo dated 7-11-2001 reads as under:

> "The attention of the Director of Treasures and Accounts, Andhra Pradesh, Hyderabad is invited to the reference cited and he is informed that the Pay Revision Commission,1999 has recommended for the prospective discontinuance of the Scheme of Family Planning

> Incentive Increments and sanction of Advance Increments for possession of higher qualifications. The orders on the above recommendations have not been issued so far. Hence, the Director of Treasuries and Accounts is requested to await these orders."

The Order of the 3rd respondent dated 30-1-2002 reads as under:

> "I am to inform you that the Pay Revision Commission,1999 has recommended for the prospective discontinuance of the scheme of Family Planning Incentive Increment and sanction of Advance Increments for possession of higher qualifications as per the instructions issued in the Government Memo 2nd cited.
>
> Hence, you are requested to follow the government instructions issued in the reference 2nd cited and effect the recoveries if any bills were cashed previously on the subject."

From the above, it is seen that the Director of Treasuries and Accounts, Hyderabad was informed that the Pay Revision Commission-1999 had recommended for the prospective discontinuance of the scheme of Family Planning Incentive Increments and sanction of advance increments for possession of higher qualifications. There is no mention that the Government has approved such a recommendation and it has retrospective effect. In the absence of that, issuing of the impugned Proceedings dated 30-1-2002 by the 3rd respondent directing to effect recoveries, if any bills were encashed previously on the subject, is nothing but misreading of the Government Memo dated 7-11-2001. So long as the recommendations as stated in the Government Memo dated 7-11-2001 are approved by the Government and orders are issued in that regard, no action can be taken against the petitioners for recovery of the amounts, which are being paid in the shape of advance increments for possessing LL.B. Degree particularly with retrospective effect, since in the Memo dated 7-11-2001, it was categorically stated that the Pay Revision Commission-1999 recommended only for prospective discontinuance of the scheme of sanction of advance increments for possessing higher qualifications. Therefore, issuance of impugned proceedings is arbitrary and illegal and is liable to be set aside. It is accordingly set aside.

Accordingly, the Writ Petition is allowed. There shall be no order as to costs.

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DEVINDER GUPTA, C.J.

09-11-2004

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C.V.RAMULU, J

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Tuesday, Ninth day of November Two thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar, High Court of A.P.,

High Court Buildings, Hyderabad.
2 The District Judge, Krishna at Machilipatnam.
3 The Deputy Director, Office of the District Treasury Office,

Krishna at Chilakalapudi.

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